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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,464	06/29/2001	Michel Ruffin	Q64056	7377

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EXAMINER

PATEL, HARESH N

ART UNIT PAPER NUMBER

2154

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/807,464

Applicant(s)

RUFFIN ET AL.

Examiner

Haresh Patel

Art Unit

2154

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: None.  
Claim(s) objected to: None.  
Claim(s) rejected: 1-6.  
Claim(s) withdrawn from consideration: None.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

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Continuation of 11. does NOT place the application in condition for allowance because: the cited prior arts still render the claims unpatentable and the final rejection is deemed proper.

Applicant's arguments filed 7/11/2006, pages 2-3 regarding 35 U.S.C. 132 and 35 U.S.C. 112 rejections are persuasive. Hence, 35 U.S.C. 132 and 35 U.S.C. 112 rejections are withdrawn.

However, Applicant's arguments filed 7/11/2006, pages 3-10 regarding 35 U.S.C. 103 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-6 is maintained.

Applicant argues (1), "There is no motivation to combine the Schaefer and Leymann references".

The examiner respectfully disagrees in response to applicant's arguments. Contrary to applicant's assertions, the limitations relied upon Leymann-IBM reference i.e., usage of set up if a previous transaction has succeeded is not only taught by Leymann-IBM (e.g., col., 11, line 21 – col., 12, line 56, figures 4-8) but Leymann-IBM also discloses at least one benefit of using set up if a previous transaction has succeeded. For example, the previous transaction supporting information for processing of information in a current transaction (e.g., col., 11, line 21 – col., 12, line 56, figures 4-8). The usage of previous transaction and the current transaction provide information from one entity to another entity. Further, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. It is also not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In re Keller, 642 F.2d 414, 425, 208 USPQ 871, 881 (CCPA 1981); In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). The reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972). There is no requirement that the prior art provide the same reason as the applicant to make the claimed invention. Ex parte Levengood, 28 USPQ2d 1300, 1302 (Bd. Pat. App. & Inter. 1993). Since, as mentioned above, Leymann-IBM discloses at least one benefit of using set up if a previous transaction has succeeded, the rejection is maintained.

Applicant argues (2), "one of ordinary skill in the art would not have been motivated to combine the teachings of the cited Schaefer with the teachings of the Leymann, as Schaefer is directed to increasing interoperability within a global transaction system. A global transaction system has a client interacting with multiple servers, one for a hotel reservation, one for a car rental reservation, and one for a flight reservation, for example. Each server has its own database that must be updated. These updates are performed by a local transaction manager, under the control of a global transaction manager which serves to coordinate the updates".

The examiner respectfully disagrees in response to applicant's arguments. Schaefer and Leymann teachings are not limited as asserted by the applicant. Schaefer also discloses the claimed limitations transmitting information by means of independent transactions (e.g. usage of multiple non-global transactions and/or usage of ACID properties, e.g., figures 6A-6D, col., 3, lines 1-53, col., 13, line 34 – col., 14, line 49). The claims contain independent transactions with contrary dependent transactions, i.e. the transactions that depend on a previous transaction has succeeded (see claim 1), and also the transactions are again contrary to the ACID properties of the claimed subject matter in which Atomicity guarantees that all the updates of a transaction are effected or none of them (see claim 1 and pages 1 and 2 of the specification). Note: The claims do not specify what is considered as a transaction, and whether the transaction (single) can exist between the supplier and the consumer or not, and, whether only one transaction or many transactions exist between a supplier and a first communication channel of the chain (between each of the communication channels of the chain, etc). The claims also do not specify what is considered as a communication channel. The interpretation of the claimed subject matter of claims, is not limited to when an intermediate communication channel fails, it does not need to go all the wayback to the supplier to restart the transaction, as asserted by the applicant. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (3), "Leymann is directed to a global transaction system whereby transactions are grouped into strata and processed together. communication traffic for coordination of transactions with optimizing concurrency behavior and throughput of a collection of transactions. Leymann accomplishes this by grouping transactions, and the references actually teach away from their combination. Specitically".

The examiner respectfully disagrees in response to applicant's arguments. Schaefer and Leymann teachings are not limited as asserted by the applicant. Both Leymann and Schaefer disclose the relied upon limitations as presented in the above responses. Applicant's assertions that these references teach away from each other is misleading because the claimed limitation is neither limited to nor concerned about usage of the X/Open XATMI-complaint transaction managers and MS DTC transaction managers. Therefore, the rejection is maintained.

Applicant argues (4), "combined teachings of Schaefer and Leymann do not teach limitations of claim 1, i.e. transmitting information by means of independent transactions", and states, "Schaefer is concerned with combining what would otherwise be disparate transactional processing systems and environments, such as providing inoperability between windows based clients, e.g., MS DTC, and an X/open XATMI-compliant system. The MS DTC environment cannot currently interoperate with resources on remote server controlled by an X/open XATMI compliant transaction manager. Since there is a large installed base of client server applications that are built upon an X/open XATMI compliant transaction manager, it is desirable to provide a method and apparatus that enable an MS DTC to include such

service in a global transaction that it controls" and "Leymann discloses grouping transactions and then processing the group as a set of chained strata".

The examiner respectfully disagrees in response to applicant's arguments. Schaefer and Leymann teachings are not limited as asserted by the applicant. Schaefer also discloses the claimed limitations transmitting information by means of independent transactions (e.g. usage of multiple non-global transactions and/or usage of ACID properties, e.g., figures 6A-6D, col., 3, lines 1-53, col., 13, line 34 – col., 14, line 49). The claims contain independent transactions with contrary dependent transactions, i.e. the transactions that depend on a previous transaction has succeeded (see claim 1), and also the transactions are again contrary to the ACID properties of the claimed subject matter in which Atomicity guarantees that all the updates of a transaction are effected or none of them (see claim 1 and pages 1 and 2 of the specification). Note: The claims do not specify what is considered as a transaction, and whether the transaction (single) can exist between the supplier and the consumer or not, and, whether only one transaction or many transactions exist between a supplier and a first communication channel of the chain (between each of the communication channels of the chain, etc). The claims also do not specify what is considered as a communication channel. The interpretation of the claimed subject matter of claims, is not limited to when an intermediate communication channel fails, it does not need to go all the wayback to the supplier to restart the transaction, as asserted by the applicant. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (5), "claim 1 is based on only Independent Transactions Feature" and "independent transactions" are used for transmitting information.

The examiner respectfully disagrees in response to applicant's arguments. The claimed invention depends on the previous transaction. Also, the claims do not specify what is considered as a transaction, and whether the transaction (single) can exist between the supplier and the consumer or not, and, whether only one transaction or many transactions exist between a supplier and a first communication channel of the chain (between each of the communication channels of the chain, etc). The claims also do not specify what is considered as a communication channel. The interpretation of the claimed subject matter of claims, is not limited to when an intermediate communication channel fails, it does not need to go all the wayback to the supplier to restart the transaction, as asserted by the applicant.

Further, claim 1 clearly states, "the transactions between the communication channels of said chain and between the last communication channel of said chain and said consumer is set up if a previous transaction has succeeded", which is infact depending on the previous transaction.

Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (6), "claim 1 is based on Chain of Communication Channels feature" and "while there may be three different communication channels, i.e., one between the consumer and the air server, one between the consumer and the car server, and one between the consumer and the hotel server, a chain has links one connected to another and the cited references do not have a chain of communication channels which connects a supplier and a consumer".

The examiner respectfully disagrees in response to applicant's arguments. Schaefer discloses a chain of communication channels (e.g., figure 3 containing series of software and/or hardware modules between the transaction producer and consumer that carryout communication). As per the applicant's assertions the Schaefer teachings are not limited to having only one channel between the supplier and the consumer that fascilitate communication by means of just a direct communication between supplier and consumer without intermediate communication supporting means. In fact, the claims do not specify what is considered as a transaction, and whether the transaction (single) can exist between the supplier and the consumer or not, and, whether only one transaction or many transactions exist between a supplier and a first communication channel of the chain (between each of the communication channels of the chain, etc). The claims also do not specify what is considered as a communication channel. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (7), "the claimed subject matter i.e., interpretation of chain of communication channels feature represent that an asynchronous communication service contain a manager and one or more communication channels of the specification under prosecution".

The examiner respectfully disagrees in response to applicant's arguments. The claimed invention neither contains asynchronous communication service nor the manager. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "asynchronous communication service contain a manager and one or more communication channels", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See *In re Wilder*, 166 USPQ 545, 548 (CCPA 1970). What is claimed is, claim 1 which is related to the above arguments, "a method of transmitting information asynchronously between a supplier and a consumer in accordance with Atomicity, Coherence, Isolation and Durability (ACID) properties". Please refer to the above responses and office action dated 4/24/2006 for the teachings of the rejections of these limitations. Therefore, the rejection is maintained.

Applicant argues (8), "Schaefer does not teach limitations of claim 4, i.e, each communication channel has a set of clients which are other communication channels or consumers" and states, "Schaefer a resource manager that receives XATMI service requests and directives issued by a first transaction manager for a given single global transaction. The resource manager then translates the service requests and the directives into service requests for an OSI TP protocol machine. By virtue of this system, the remote sender is able to appear to the

first transaction manager as simply another local resource within the transaction processing environment".

The examiner respectfully disagrees in response to applicant's arguments. Schaefer discloses each communication channel has a set of clients which are other communication channels or consumers (e.g., figure 3 containing series of software and/or hardware modules between the transaction producer and consumer and having modules that support communication, further the software and/or hardware modules support communicating information to other entities that support communicating information and/or entities that consume information, please refer to the related disclosure supporting the figure 3). Note: The claims do not specify what is considered as a transaction, and whether the transaction (single) can exist between the supplier and the consumer or not, and, whether only one transaction or many transactions exist between a supplier and a first communication channel of the chain (between each of the communication channels of the chain, etc). The claims also do not specify what is considered as a communication channel and consumer. Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Please also refer to the responses of the office action 4/24/2006.